

**VILLAGE OF VERNON HILLS
ORDINANCE 2023-105**

AN ORDINANCE AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A CONTRACT EXTENSION WITH JAMES MARTIN AND ASSOCIATES, INC. TO PERFORM SNOW & ICE CONTROL SERVICES DURING THE 2023-2024 WINTER SEASON FOR AN AMOUNT NOT TO EXCEED \$148,000

WHEREAS, the Village of Vernon Hills, County of Lake, State of Illinois (*“the Village”*) is a duly organized and existing municipality and unit of local government created under the provisions of the laws of the State of Illinois, and is operating under the provisions of the Illinois Municipal Code; and

WHEREAS, the Village budgets funds within the street contractual services account (0102040-520630), and the Metra street contractual services account (0909085-520630) for the snow removal of streets, cul-de-sacs, and sidewalks; and

WHEREAS, the Village Board authorized a multi-year contract with James Martin and Associates, Inc. (JMA) to provide snow & ice control services for 106 cul-de-sacs and the Metra Station lot and sidewalks until spring 2023; and

WHEREAS, Staff would like authorization to execute a contract extension with JMA for one additional winter season until spring 2024; and

WHEREAS, Staff seeks approval from the Village Board to authorize the Village Manager to execute a contract with James Martin Associates, Inc. to provide snow & ice control operations for cul-de-sacs and the Metra Station until spring 2024.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: EXECUTION OF AGREEMENT: The Village Manager is hereby authorized to execute all documents required with James Martin & Associates to perform contractual snow & ice services for 106 cul-de-sacs and the Metra Station until Spring 2024 for an amount not to exceed \$148,000.

SECTION 2: AUTHORIZATION & RELEASE OF PAYMENT: The Finance Director is hereby authorized to make payments to James Martin & Associates for an amount not to exceed \$148,000.

SECTION 3: EFFECTIVE DATE: This Ordinance shall be in full force and effective from its passage and approval.

SECTION 4: ORDINANCE NUMBER: This Ordinance shall be known as Ordinance Number 2023-105.

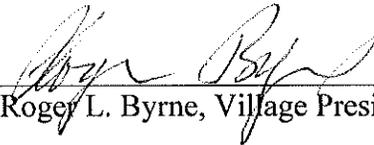
Dated the 7th of November, 2023

Adopted by roll call votes as follows:

AYES: 5 – Marquardt, Forster, Schenk, Koch, Byrne

NAYS: 0 - None

ABSENT AND NOT VOTING: 2 – Oppenheim, Takaoka

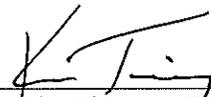


Roger L. Byrne, Village President

PASSED: 11/07/2023

APPROVED: 11/07/2023

ATTEST: 11/07/2023



Kevin Timony, Village Clerk



ADDENDUM

This Addendum is in addition to the terms in the attached Agreement between Contractor and the Village of Vernon Hills and shall be deemed an integral part of said Agreement. To the extent the terms in this Addendum conflict with the terms in the attached Agreement, the terms in this Addendum shall control.

1. Direction of Work. Contractor agrees that the Director of Public Works, or his designee, shall be Contractor's point of contact with the Village and all communications between Contractor and the Village shall be made through the Director of Public Works and/or his designee. The Director of Public Works or his designee will provide direction to Contractor to enable Contractor to perform the work but shall not be responsible for controlling Contractor's manner, means or methods of performing the work.
2. No Employment Relationship. Nothing in the Contractor's Agreement or this Addendum, or any exhibit, shall create an employee-employee relationship between Contractor or any individual and the Village. Contractor shall not be considered as having an employee status, nor shall the Village withhold any sums for the payment of income taxes, or FICA taxes, nor shall Contractor be entitled to participate in any plans, arrangements, or distributions by the Village pertaining to or in connection with any pension or retirement plans, or any other benefits for the regular employees of the Village.
3. Insurance. Contractor shall provide insurance at or above the minimum standards in the attached Exhibit A.
4. Payment. Contractor stipulates and agrees that the Village shall make payments pursuant to the Local Government Prompt Payment Act, 50 ILCS 505/1 et seq.
5. Right to Withhold Payment. Without prejudice to any other remedy or right the Village may have, the Village may withhold payment, either in whole or in part, based on: (1) Contractor's failure to perform; (2) claims by subcontractors or others; (3) for damage caused by Contractor in the performance of its work; or (4) for work that is flawed or defective; or (5) based on Contractor's failure to comply with any terms of this Agreement or any Addendum or Exhibit.
6. No Liens. Contractor agrees that it shall not place a lien on any equipment or property of, or belonging to, the Village.
7. Contractor Certifications. Contractor agrees to execute the Certification attached as Exhibit B and certifies that each of the statements contained therein are true and correct.
8. Termination. The Village shall have the right, for its convenience, to terminate or suspend the Work in whole or in part at any time by written notice to Contractor. Every such notice shall state the extent and effective date of such termination or suspension. On such effective date, Contractor shall, as and to the extent directed, stop Work under this Contract, cease all placement

of further orders or subcontracts, terminate or suspend Work under existing orders and subcontracts, and cancel any outstanding orders or subcontracts that may be canceled.

9. Indemnification. As a material inducement for the Village to enter into this contract, Contractor agrees to defend, indemnify and hold harmless the Village and its elected officials, officers, agents, attorneys and employees from and against any and all claims, actions, suits, damages, costs, expenses and liabilities, including the reasonable fees and expenses of their attorneys, expert witnesses and consultants, court costs and fines, asserted against them or sought to be imposed upon them, individually, jointly or severally, and which arise directly or indirectly out of or in connection in any way with Contractor's operation of the Project or performance of the terms of this contract, except to the extent that those claims, actions, suits, damages, costs, expenses and liabilities arise from the sole negligence of Village, its representatives, officers, trustees, agents and employees. In the event of any claims, actions, suits, damages, costs, expenses and liabilities, the Village shall have the right to counsel of its choice and the right to direct its own defense.

The scope of Contractor's indemnification shall include, but is not limited to:

- (1) Any negligent, tortious or wrongful act or omission of Contractor, its officers, agents, employees, contractors or subcontractors, resulting in personal injury, bodily injury, sickness or death to any person, loss or damage of any kind to the property of any person, including Contractor, its officers, agents employees, licensees and invitees, or damage to or loss of other intangible property rights or personal rights, including but not limited to libel, slander and invasion of privacy; and
- (2) loss or damage of any kind resulting from Contractor's failure to comply with any provision of this contract, or of any federal, state or local law or regulation applicable to Contractor.

OWNER:

Attest/Witness

VILLAGE OF VERNON HILLS

By: *Elizabeth Kowal*

By: *K. Ting*

Title: Executive Secretary

Title: Village Manager

CONTRACTOR:

Attest/Witness:

JAMES MARTIN ASSOCIATES, INC.

By: _____

By: *Thomas Bolas*

Title: _____

Title: Vice President

EXHIBIT A

INSURANCE REQUIREMENTS

CONTRACTOR AGREES TO MAINTAIN THE FOLLOWING:

Property Insurance:

Minimum Limits of Insurance

Contractor shall maintain limits no less than:

- Comprehensive General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. Minimum General Aggregate shall be no less than \$3,000,000 per person per aggregate; or Villages and Contractors Protective Liability: \$1,000,000 combined single limit per occurrence.
- Automobile Liability: \$500,000 combined single limit per accident for bodily injury and property damage.
- Worker's Compensation and Employers' Liability: Worker's Compensation limits as required by the Labor Code of the State of Illinois and Employers' Liability limits of \$500,000 per accident.
- If Contractor's current policies do not provide the required coverage in this Exhibit A, proof of umbrella or excess coverage meeting these requirements shall be presented to the Village in advance of the execution of this Contract.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by The Village. At the option of The Village, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects The Village, its officials, employees and volunteers; or Contractor shall procure a bond guaranteeing payment of losses and related investigation, claim administration and defense expenses.

Other Insurance Provisions

The policies are to contain, or be endorsed to contain the following provisions:

Commercial General Liability, The Village's and Contractor's Protective Liability and Automobile Liability Coverage

- a. **The Village, its officers, officials, employees, and volunteers shall be covered as additional insureds on Contractor's Commercial General Liability policy with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on**

behalf of Contractor. General liability coverage can be provided in the form of an endorsement to Contractor's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used). The coverage shall contain no special limits on the scope of the protection afforded to The Village, its officials, employees or volunteers.

- b. For any claims related to this project, Contractor's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 with respect to the Village, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Village, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it. Contractor shall procure and maintain for the duration of the contract, and for 2 years thereafter, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, his agents, representatives, employees, or subcontractors. Contractor's policy or policies of insurance shall specifically recognize and cover Contractor's indemnification obligations under this contract, and shall contain cross-liability endorsements
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Village, its officials, employees or volunteers.
- d. Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits or the insurer's liability.

Worker's Compensation and Employers' Liability Coverage

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the Entity for all work performed by the Contractor, its employees, agents and subcontractors.

All Coverages

Each insurance policy required by this clause shall be endorsed to state that the coverage shall not be suspended, voided; canceled, reduced in coverage or in limits except after thirty (30) day's prior written notice by certified mail, return receipt requested, has been given to The Village. In the event of the cancellation of any insurance policy required herein, or upon Contractor's failure to procure said insurance, the Village shall have the right to terminate this Agreement.

Acceptability of Insurers

The insurance carrier used by Contractor shall have a minimum insurance rating of A- according to the AM Best insurance Rating Schedule and licensed to do business in the State of Illinois.

Certificates of Insurance

Contractor shall furnish The Village with certificates of insurance naming The Village, its officials, agents, employees and volunteers as additional insureds, and with original endorsements affecting coverage required by this clause as follows:

- **Additional insured endorsement on the General liability**
- **Additional insured endorsement on the Automobile**
- **Primary non-contributory endorsement on the General Liability**
- **Primary non-contributory endorsement on the Automobile**
- **Waiver of Subrogation endorsement on the Workers Compensation**

The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by the municipality and are to be received and approved by the municipality before any work commences. **The Village reserves the right to request full certified copies of the insurance policies. Contractor shall furnish evidence of such insurance to the Village prior to the Effective Date,** and then on an annual basis thereafter, in the form of a Certificate of Insurance that names the Village and its elected officials, officers, agents, attorneys and employees as additional insureds. The Village shall have the right to approve the coverage and carrier, which approval shall not be unreasonably withheld.

Subcontractors' Insurance

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that the Village is an additional insured on insurance required from subcontractors. For Commercial General Liability coverage, subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

EXHIBIT B

CONTRACTOR CERTIFICATION

Contractor hereby certifies that Contractor, its shareholders holding more than five percent (5%) of the outstanding shares of Contractor, its officers and directors are:

- (A) not delinquent in the payment of taxes to the Illinois Department of Revenue in accordance with 651LCS 5/1 1-42,1-I;
- (B) not barred from contracting as a result of a violation of either Section 33E-3 (bid rigging) or Section 33E-4 (bid rotating) of the Criminal Code of 1961 (720 ILCS 5133E-3 and 5133E-4);
- (C) not in default, as defined in 5 ILCS 385/2, on an educational loan, as defined in 5 ILCS 385/1;
- (D) in compliance with the Veterans Preference Act (330 ILCS 55/0.01 et.seq.);
- (E) in compliance with the Equal Employment Opportunity Act and all other state and federal laws and regulations prohibiting unlawful discrimination and that during the performance of the Agreement, Contractor shall:
 1. not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or woman are underutilized and will take appropriate affirmative action to rectify any such underutilization;
 2. if it hires additional employees in order to perform this Agreement or any portion hereof, it will determine the availability (in accordance with the Illinois Department of Human Rights Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized;
 3. in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service;
 4. send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of Contractor's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or

refuses to cooperate with Contractor in its efforts to comply with such Act and Rules and Regulations, Contractor will promptly notify the Illinois Department of Human Rights and Contractor will recruit employees from other sources when necessary to fulfill its obligations thereunder;

5. submit reports as required by the Illinois Department of Human Rights, Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human rights Act and the Department's Rules and Regulations;
6. permit access to all relevant books, records, accounts, and work sites by personnel of the contracting agency and the Illinois Department of Human Rights for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations; and
7. not maintain or provide for its employees any segregated facilities at any of its establishments, and not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. As used in this section, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin because of habit, local custom, or otherwise;
8. in compliance with 775 ILCS 5/2-1.05(A)(4) by having in place and enforcing a written sexual harassment policy;
9. in agreement that in the event of non-compliance with the provisions of this certification relating to equal employment opportunity, the Illinois Human Rights Act or the Illinois Department of Human Rights, Rules and Regulations, Contractor may be declared ineligible for future contracts with The Village, and this Agreement may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation;
10. in compliance with 30 ILCS 580/I et seq. (Drug Free Workplace Act) by providing a drug-free workplace by publishing a statement:
 - (a) notifying employees that the unlawful manufacture, or distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in Contractor's workplace.
 - (b) specifying the actions that will be taken against employees for violations of such prohibition.

- (c) notifying the employee that, as a condition of employment on such Agreement, the employee will:
 - i. abide by the terms of the statement; and
 - ii. notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction
 - iii. establish a drug-free awareness program to inform employees about:
 - (A) the dangers of drug abuse in the workplace;
 - (B) Contractor's policy of maintaining a drug-free workplace;
 - (C) any available drug counseling, rehabilitation, and employee assistance program, and the penalties that may be imposed upon employees for drug violations;
 - (D) make it a requirement to give a copy of the statement to each employee engaged in the performance of the Agreement, and to post the statement in a prominent place in the workplace;
 - (d.) notifying the Village within ten (10) days after receiving notice from any employee or otherwise receiving actual notice of any conviction;
 - (e) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted, as required by 30 ILCS 580/5;
 - (f) assisting employees in selecting a course of action in the event drug counseling treatment and rehabilitation is required and indicated that a trained referral team is in place; and
 - (g) making a good faith effort to continue to maintain a drug-free workplace through implementation of this section; and
11. not in violation of Village Ordinances by Contractor having given to any officer, employee, spouse of or immediate family member living with any officer or employee of The Village any gift except as otherwise permitted therein.

12. Is currently and will remain in compliance Employment of Illinois Workers on Public Works Act (30 ILCS 570/1 through 570/7):

(A) Whenever there is a period of excessive unemployment in Illinois, which is defined herein as any month immediately following two (2) consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded five (5%) percent as measured by the United States Bureau of labor Statistics in its monthly publication of employment and unemployment figures, Contractor and all Trade Contractors shall employ only Illinois laborers. "Illinois Laborers" means any person who has resided in Illinois for at least thirty (30) days and intends to become or remain an Illinois resident.

(B) Other laborers may be used when Illinois laborers as defined herein are not available, or are incapable of performing the particular type of work involved, if so certified by Contractor and approved by the Architect. Contractor may place no more than three (3) of its regularly employed non-resident executive and technical experts, who do not qualify as Illinois laborers, to do work encompassed by this Agreement during periods of excessive unemployment.

(C) This provision applies to all labor, whether skilled, semi-skilled, whether manual or non-manual.

IN WITNESS WHEREOF Contractor has hereunto set his/their hands and seals this _____ day of November, 10 _____ 2023 .

CONTRACTOR

Business Name: James Martin Associates, Inc

Signature: Thomas Bolas

Printed Name: Thomas Bolas

Title: Vice President

Date: 11/10/2023

Certificate of Compliance

PURSUANT TO ILLINOIS REVISED STATUTES, CHAPTER 38, SECTION 33E-11, THE UNDERSIGNED CERTIFIES ON BEHALF OF HIMSELF AND/OR AS AGENT OR EMPLOYEE OF James Martin Associates, Inc THAT THIS CONTRACTOR HAS NOT BEEN BARRED FROM CONTRACTING WITH ANY UNIT OF STATE OR LOCAL GOVERNMENT AS A RESULT OF A VIOLATION OF EITHER A BID RIGGING OR BID ROTATING CONVICTION AND FURTHER CERTIFIES THAT SAID INDIVIDUAL OR ENTITY OWES NO DELINQUENT TAXES ADMINISTERED BY THE DEPARTMENT OF REVENUE UNLESS THE INDIVIDUAL OR OTHER ENTITY IS CONTESTING, IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED BY THE APPROPRIATE REVENUE ACTS, ITS LIABILITY FOR THE TAX OR THE AMOUNT OF THE TAX.

By: Thomas Bolas
(Signature)

James Martin Associates, Inc
(Name of bidding company)

Thomas Bolas
(Print Name)

1440 Townline Rd
(Address)

Date Submitted: 11/10/2023

Mundelein IL 60060
(City) (State) (Zip)

847-634-1660

(Phone)

84-634-8298

(FAX)

t.bolas@jamesmartinassociates.com

(E-Mail)

Coordination of Contractors

The Village of Vernon Hills has the responsibility to hire contractors who are knowledgeable of the applicable requirements of the ILR40 and ILR10 permits. To provide education for all contractors responsible for municipal green infrastructures and ensure they are aware of good housekeeping/pollution prevention practices. The current ILR10 may be found on the Village website, Engineering Department, NPDES Report. The current ILR40 may be found on the Village website, Engineering Department, Vernon Hills SMPP.

Certification of Coordination of Contractors

This certifies that James Martin Associates, Inc (company name) is knowledgeable of the applicable requirements of the ILR40 and ILR10 permits. Also, has reviewed and understands all Stormwater Best Practices as listed on the Lake County Stormwater Management Commission website.

Thomas Bolas

Authorized Signature

Thomas Bolas

Printed Name

Vice President

Title

James Martin Associates, Inc

Company

11/10/2023

Date

Certification of Substance Abuse Prevention Program

This certifies that James Martin Associates, Inc (company name) has a written Substance Abuse Prevention Program, in compliance with the Prevailing Wage Act.

Thomas Bolas

Authorized Signature

Thomas Bolas

Printed Name

Vice President

Title

James Martin Associates, Inc

Company

11/10/2023

Date



**SNOW & ICE MANAGEMENT SERVICES AGREEMENT
2023-2024 Snow Seasons**

August 10, 2023

Opportunity #:

Attn: Ken Loar
Forestry Crew Leader
Village of Vernon Hills
490 Greenleaf Drive
Vernon Hills, IL 60061-1039

Phone: 847-680-2268
Mobile:
Email: KenL@vhills.org

Property:

VH Cul-de-Sacs – 108 Cul-de-Sacs, Vernon Hills, IL

James Martin Associates, Inc. (JMA) and the Client, in consideration of the mutually agreed terms and conditions described below, enter into the following Snow and Ice Management Services Agreement (Agreement), for the period specified, for services on the Property (Property) described above:

SECTION 1 – CONTRACT DATES FOR SNOW AND ICE MANAGEMENT AGREEMENT

JMA will be responsible for providing services in accordance with this agreement beginning November 1, 2023 and ending March 31, 2024.

SECTION 2 – FEES FOR SNOW AND ICE MANAGEMENT SERVICES

	<u>Mon-Sat Plowing Amount</u>	<u>Sun/Holiday Plowing Amount</u>	Accept	Decline
2023-2024 Plowing of 108 Cul-de-Sacs				
2-8.9" Accumulation (11 vehicles)	\$ 9,064.00	\$ 10,764.00	✓	_____
9-12" Accumulation (11 vehicles)	\$ 11,979.00	\$ 13,120.00	_____	_____

2023-2024 Season Guaranteed Minimum for Plowing of Cul-de-sacs \$ 40,000.00 per season

Two (2) pre-payments of \$20,000 each will be due to JMA by November 15 and December 15 for each season. These payments will be applied to the invoices for cul-de-sac plowing up to the season minimum. Plowing occurrences beyond the season minimum will be invoiced.

**Initial to Request
Snow Staking**

JMA will stake curbs and obstacles by 12/1 each year upon Client's request and will invoice the Client \$3.00 per stake. Areas to be staked will be identified and communicated to the Client prior to the staking being completed.

SECTION 3 - BILLING: For Services provided on a "Season-Long Basis", JMA will submit invoices on the 1st of each of the 5 months, November through March, for 20% of the annual amount for the Snow Plowing portion of the Services. Invoicing will begin with November of each snow season. Invoices for services outside the realm of the basic services will be invoiced as completed.

All invoices are due within fifteen (15) days of the date of invoice. For any amount owed thirty days past the due date, the Client agrees to pay JMA a finance charge of 1½ % per month or 18% per year. If the Client's account is past due, JMA may, without notice, suspend its obligation to perform Services until JMA receives all amounts past due and owing. During the period of such suspension, the Client agrees and understands that JMA will not be liable for any costs or damages, including but not limited to consequential damages, to the Client or any other party that may arise from or be related to such a suspension of Services. The Client also agrees to pay any expenses incurred by JMA in collecting amounts due, including court costs, all reasonable attorneys' fees and all other reasonable costs of collection.

SECTION 4 – DESCRIPTION OF SERVICE JMA, an independent contractor, will provide Snow and Ice Management Services to the Client's Property, subject to the terms and conditions described in this agreement and the Client agrees to provide JMA with access to the Property to perform these Services:

Enriching Lives Through Beautiful Landscapes Since 1977

James Martin Associates, Inc. • 59 East US Highway 45 • Vernon Hills, IL 60061 • Phone: 847-634-1660 • Fax: 847-634-8298
email: mail@jamesmartinassociates.com • www.jamesmartinassociates.com

A. Snow and Ice Management Services: JMA will provide the following Snow and Ice Management Services (Services) on the Property according to the terms and conditions described in this Agreement:

JMA will clear snow accumulations from the following areas **after TWO inch (2")** snow accumulation:

- 108 Cul-de-Sacs
- Walks NOT included

Cul-de-Sac Specification Details:

- The enclosed nature of cul-de-sacs does not allow normal plowing to the curb edge. Therefore, snow removal is accomplished by the contractor strategically relocating snow to limited off street areas away from sidewalks, drives, mailboxes and hydrants. Each driveway, however, may receive a nominal amount of snow resulting from the normal spill-off from the snowplow in front of each home.
- Additionally, during periods of greater accumulation from individual snows or due to frequency of snow events, where possible, the contractor is required to raise the plow above the curb line and push snow back from the street edge until the front wheels of the vehicle are stopped by the curb.
- The initial plowing must be completed within 6 hours of call out, with a follow-up inspection by each driver of each designated route being part of a complete plow event.
- Village staff will inspect all plowed areas the day following a storm and if required, will contact contractor to provide additional relocation of snow. This additional work will be performed by the contractor on an hourly basis and is not part of a lump sum fee.
- Per request, cul-de-sacs will be salted after plowing at an hourly application rate with a handling fee for stockpiling and loading the salt supplied by the Village

When plowing begins at the Property, drives and lanes will be plowed to allow general access to the entire site. Individual parking spaces which are accessible will then be plowed throughout the site. This process will complete what is to be termed a "plowing occurrence."

- i. ~~After JMA clears an area of snow on the property by plowing (if shoveling is included, see vii. below), JMA will apply deicing chemicals to the cleared areas. **Not applicable.**~~
- ii. ~~JMA will chemically treat snow accumulations of less than one inch (1") in most cases to reduce the accumulations. JMA will chemically treat icy conditions caused by light snow, freezing rain or sleet, in most cases. **Not applicable.**~~
- iii. Snowfalls during daytime business hours will be plowed and chemically treated and shoveled, if shoveling is included in the contract, as necessary with primary focus on main lanes, entrances and egresses of property and main entrance walks, based upon Partial or Full Per Occurrence Rates. This may require multiple visits.
- iv. JMA is not responsible for plowing, clearing or chemically treating areas where cars are parked. JMA will make reasonable efforts to clear parking areas between and around parked cars. JMA will not plow within two (2) feet of parked vehicles. Further, JMA will not plow in between parked vehicles. The Client and/or its agents will coordinate with JMA for a return to the site to plow once vehicles move at our Hourly Service Rates.
- v. JMA is not responsible for ice-control near low lying areas that are prone to collect water that can freeze. JMA shall not be responsible for ice-control in or near depressions, potholes or other defects on the property that are prone to collect water that can freeze. JMA shall not be responsible for refreeze due to drainage of defective down spouts, roof balconies, awnings, canopies or any other refreezing events after the initial services have been rendered.
- vi. JMA will do its best to push snow off the paved areas using truck mounted plows. In the case where snows have caused the loss of parking space or accumulated snow has encroached into the paved areas, JMA, when requested, will provide snow relocation services based upon our Hourly Service Rates. These services will be provided on a first call/first service basis and only after JMA has completed its normal plowing and deicing operations.
- vii. Shoveling operations in most cases will be done concurrently with the plowing operations. Once snow has been cleared from walks and pedestrian areas, JMA will apply deicing chemicals to the cleared areas. However, during times of unsafe or severe weather conditions or worker exhaustion due to continuous snow removal operations, JMA reserves the right to leave the site and return to

complete operations after the unsafe weather conditions have ended or after the workers have been rested.

- viii. Client understands it maintains a responsibility to inspect Work performed by JMA to determine if it is satisfactory and to their specification. If Client and/or its agent does not advise JMA that there is a need for additional snow removal or de-icing application services, then the parties hereby agree that JMA has satisfactorily performed its contractual duties at the time.
- ix. During periods of Severe Weather Conditions, (see Section 5) it may/will be necessary to provide multiple plowing and shoveling operations to remove excess accumulations. **This action will result in an additional charge**, to be calculated using our Hourly Rates as detailed in Section 4C, unless otherwise specified in Section 4.

B. Snow Hauling and Relocating Services: Excluded from these Snow and Ice Management Services is hauling or relocating snow within the Property or off the Property and the use of loaders to pile and perform additional pushing during or after successive storms. JMA must be authorized by the Client to provide these additional services which will be provided at the Hourly Service Rates below.

C. Hourly Services and Material Rates – JMA will perform Hourly Services as described above and when applicable based upon the following rate schedule:

Truck with 6 ½ -7' blade	\$ 80.00	per hour	Semi Dump Truck	\$ 260.00	per hour
Truck with 7 ½ -8' blade	\$ 104.00	per hour	Skid Steer Loader	\$ 175.00	per hour
Truck with 8 ½ -9' blade	\$ 115.00	per hour	Front End Loader	\$ 290.00	per hour
Truck with 9 – 11' blade	\$ 138.00	per hour	Laborer with Shovels	\$ 63.00	per hour
10-12 Ft. Snow Pusher	\$ 75.00	per hour	Laborer with snow blower	\$ 92.00	per hour
14-16 Ft. Snow Pusher	\$ 92.00	per hour	Sidewalk Ice Melt	\$ 63.00	per bag
Six Wheel Dump Truck	\$ 195.00	per hour	Salt	\$ 218.00	per ton
Lowboy Transportation Fee	\$ 575.00	per occurrence			

The above rates apply for operations performed up to 8 hours – for all work performed over 8 hours add \$15 per hour. Prices are portal to portal, including a lowboy transportation fee to move equipment to and from the location. All Hourly Services jobs will be assessed a ½ hour mobilization fee per snow event. For services performed on a Per Plowing Occurrence or Per Deicing Occurrence basis, a holiday surcharge of 25% will be incurred for all Snow and Ice Management Services occurring on Thanksgiving Day, Christmas Eve Day, Christmas Day, New Year's Eve Day, New Year's Day and Easter Sunday. An Hourly Rate Surcharge of \$15 per hour will apply on these same dates for all required Hourly Rate Services.

SECTION 5 – SEVERE AND UNUSUAL WEATHER CONDITIONS

JMA and Client agree that Severe Weather Conditions are defined as follows:

- A. Severe Weather Definition:** Severe Weather shall be defined as any one or a combination of the following: 8" of snowfall or more within a 24 hour period (Blizzard), as measured by Murray and Trettel Meteorological Service; a period of high winds accompanied by blowing and drifting snow; an accumulation of freezing rain or ice; a period when air temperatures or wind chill temperatures are below 10 degrees Fahrenheit; or when the duration of the same storm exceeds 24 hours.
- B. Blizzard Fee:** Plowing and shoveling services will require increased amounts of time and difficulty due to the nature of 8" of snowfall or more within a 24 hour period. For any period of these severe weather conditions, all contracts will be charged a Blizzard Fee as-identified in Section 4; this includes all seasonal contracts with or without a seasonal snowfall accumulation cap and contracts that are on a per-push basis.
- C. Drifting Snow:** Clearing of drifted snow on days without snowfall or clearing of drifted snow after 24 hours from when the snow began will be invoiced at our Hourly Rates as detailed in Section 4. Clearing of drifted snow will only be completed on a first call/first serve basis upon authorization from the Client.
- D. Ice Control:** Ice control for the following situations will be invoiced at the Hourly Rates as detailed in Section 4: Severe icing from accumulations of snow, or from compacted snow, or from freezing rain or from the melting of accumulations from roofs, or downspout runoff, or melting from stockpiled snow, or ice build-ups requiring hand labor to chip the ice.
- E. Potential Salt Shortage:** Due to salt shortages from the salt suppliers, potential imposed salt rations and priority given to municipalities, JMA cannot guarantee and cannot be held responsible for the availability of rock salt to be used for ice control or for any consequential damages because of a shortage.

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SECTION 6 – INSURANCE, LIMITATION OF LIABILITY, PROPERTY DAMAGE AND TURF REPAIR PROVISIONS

JMA will maintain worker's compensation insurance, equipment and vehicle insurance and general liability insurance for the duration of this agreement. JMA and Client agree that JMA will not be liable to Client for any damage to Client's Property, personal injuries or other liability arising out of acts outside of JMA's control including but not limited to vandalism, flood, fire, hail, rain, snow, freezing, lack of salt availability or other natural causes or acts of persons other than JMA's employee's or agents. Furthermore, Client understands that plowing and or salting of a particular location may not clear to "bare pavement" and that slippery conditions may continue to prevail even after plowing or application of salt. Client acknowledges that the application of chemical de-icing agents to ice or snow on the Property will not and cannot always result in the immediate or complete removal of ice from the Property. Client understands and agrees that JMA assumes no responsibility or liability for this condition. JMA shall not be responsible for any damage or injury to persons or property by others from snow and ice conditions, including but not limited to ice caused by re-freezing of snow that has been plowed. JMA shall not be held responsible or liable for any accidents resulting in injuries due to slips or falls on Client's Property for any person except employees or agents of JMA when injuries occurred while providing services to the Client's Property.

JMA will exercise reasonable care to avoid damage to pavement, curbs, trees and shrubs. Prior to the start of the snow season, the Client agrees to document the existing conditions of the Property and will have JMA review and sign off on those existing conditions or JMA will not be responsible for any assumed damages. JMA and Client agree that JMA shall not be responsible for: (a) damage to sidewalks, curbs, sod or other plant materials due to the application of salt, calcium chloride or other de-icing agents; (b) damage done by plowing blade to concrete, asphalt or other surfaces to be plowed; (c) damage to landscaping caused by the piling of snow; (d) damage to items that are snow-covered or not visible; (e) damage caused by equipment when tree, shrub and sidewalk areas are not reasonably delineated due to snow accumulation; (f) damage to vehicles, other than the contractor's equipment and vehicles, due to icy conditions, unless directly damaged by the contractor's equipment or vehicles; (g) damage or loss resulting from melting snow and refreezing conditions; (h) water damage caused by melting snow or ice; (i) damage to obstacles that protrude from the surface of the pavement, including utilities such as water shut offs, electrical boxes, sewer vents & clean outs and any other obstacles on or within 10" of the pavement. Client understands that snow plowing, by its very nature, involves pushing steel or other types of blades over the surface of the pavement. If pavement is defective, deteriorated, weakened, frost heaved, or, was installed improperly, the results of this previous damage are more likely to appear after snow plowing.

If Client declines to have JMA apply the Services to any portion of the Property, then Client acknowledges that JMA is not responsible for any damages or claims whatsoever relating to or caused, in whole or in part, by the failure to apply the Services to the Property in any particular circumstance, and Client further agrees to indemnify and hold harmless JMA and its agents and employees from and against any such claims and acknowledges that it has the sole responsibility to manage ice on the Property.

In the event that JMA damages any turf by snow plowing, pushing or loading snow, JMA will reseed the damaged turf in the spring (**by May 1, weather permitting**) following completion of the current season's Snow and Ice Management Services and Client will provide watering if needed.

The Client will report in writing any property damage caused by JMA within forty-eight (48) hours of its occurrence. JMA will repair any timely and properly reported property damage in the spring season following completion of the Snow and Ice Maintenance Services season in which the property damage occurred. Notwithstanding anything herein to the contrary, JMA will have no obligation, and the Client waives any damages for, any property damage not timely and properly reported.

SECTION 7 – STANDARD TERMS AND CONDITIONS In the event any legal action is taken by either party against the other party to enforce any of the terms and conditions of this agreement, it is agreed that the unsuccessful party to such action shall pay to the prevailing party therein all court costs, reasonable attorney's fees and other reasonable expenses incurred by the prevailing party. It is agreed that JMA will only be liable for acts arising out of JMA's negligent performance of this work. Due to the nature of Illinois weather, JMA and Client acknowledge that JMA does not assume responsibility for maintaining paved surfaces in an ice free or snow free condition.

JMA and Client acknowledge that JMA is an independent contractor and not an employee of the Client. JMA will provide all labor, equipment, tools, materials, subcontractors and supervision required to provide the Services described in a workmanlike manner and JMA's performance will meet or exceed accepted industry snow and ice management standards. JMA and Client acknowledge that it is impossible and impracticable to achieve the total elimination of snow from all areas. Client acknowledges that JMA is not engaged, nor does it accept engagement, as a continuing monitor of potentially dangerous or unsafe conditions which may arise by reason of thawing and refreezing of previously plowed or treated areas. Upon reasonable notice from Client of any such condition, JMA will use its reasonable best efforts to service such condition. JMA and Client acknowledge that the very nature of snow and ice management includes site and weather conditions beyond JMA's and the Client's control and JMA and Client acknowledge that snow and ice management services include activities potentially damaging to the underlying

pavement and surrounding landscape elements. JMA and Client agree and acknowledge that JMA is not responsible for preventing the formation or accumulation of ice on the Property.

For any and all, actual or alleged, incidents involving in potential or apparent injury or damage, the Client will notify JMA promptly and assist in obtaining details and information required for JMA's preparation of a defense. The Client agrees that if the Client fails to promptly notify and assist, the Client will indemnify, defend and hold harmless JMA for any and all damages or injuries to persons or property or claims, actions, obligations, liabilities, costs, expenses and fees arising from the incident.

Indemnification is provided subject to Senate Bill 2138 and its limitations and restrictions.

The Client shall indemnify, defend and hold harmless JMA, its Clients, employees and subcontractors from and against any and all claims, damages, reasonable attorneys' fees, costs and expenses which JMA incurs as a result of a claim or claims brought by the Client or any third party, arising out of any wrongdoing, negligence and/or breach of contract by the Client alleged or otherwise, or any Act of God, including but not limited to extraordinary weather conditions, that is related, in any manner whatsoever, to the Property or the Client's involvement with the Property or the Services, including but not limited to personal injuries resulting from slip and fall accidents.

This contract may be terminated by either party due only to non-performance of the terms of this agreement upon thirty (30) days prior written notice. At termination the account will be audited and a final invoice will be submitted for unbilled services. The Client agrees to make payment to JMA for all services performed prior to the date of termination. The Client's obligation to pay JMA for Services performed up through and including the day of termination or expiration shall survive termination or expiration of this agreement. This agreement between James Martin Associates, Inc and Customer may be transferred and assigned by either party in order to complete the services described under this Agreement.

SECTION 8 – PHOTO RELEASE James Martin Associates, Inc.,(JMA) and the Client agree: JMA has the right to photograph the property on which services are provided; these images are products of JMA's work and remain the property of JMA in perpetuity; JMA reserves its common law copyrights and other property rights to these images; JMA has the right to publish, and/or use images of the property in whole or in part, for promotion and advertising, and other specific JMA uses such as: an awards competition, JMA website, recruiting, marketing brochures, magazine or newspaper articles and any other lawful purpose whatsoever.

SECTION 9 – NOTICES AND MISCELLANEOUS PROVISIONS For the purpose of this Agreement, there are no collateral or verbal understandings. All notices required to be in writing hereunder shall be deemed to have been duly given when delivered personally or by overnight courier with a receipt obtained therefore or when mailed by United States registered or certified mail, return receipt requested, postage prepaid, addressed, to the address of the party as set forth on the signature page hereof, or to such other address as either party may furnish to the other in writing in accordance with this Section, except that notices of changes of address shall be effective upon receipt.

Any individual who signs this Agreement on behalf of the JMA or the Client represents promises and guarantees that he or she is fully authorized to execute this Agreement on behalf of his or her employer or company. In the case of an agent of the Client of the Property, such agent represents promises and guarantees that such agent is fully authorized to execute this Agreement on behalf of the Client of the Property.

If any provision of this Agreement shall be found to be invalid, inoperative or unenforceable in law or equity, such finding shall not affect the validity of any other provisions of the Agreement, which shall be construed, reformed and enforced to affect the purposes of this Agreement to the fullest extent permitted by law.

This Agreement: (a) shall be governed by and construed under the laws of the State of Illinois, without application of principles of conflicts of laws; (b) shall constitute the entire agreement of the parties with respect to the subject matter hereof, superseding all prior oral and written communications, proposals, negotiations, representations, understandings, courses of dealing, agreements, contracts and the like between the parties in such respect; (c) may be amended, modified or terminated, and any right under this Agreement may be waived in whole or in part, only by a writing signed statement by both parties; (d) contains headings only for convenience, which headings do not form part, and shall not be used in construction, of Agreement; and (e) shall bind and insure to the benefit of the parties and their respective legal representative.

This proposal is based on the average daily price for diesel fuel being less than \$4.00 per gallon as determined by the Department of Energy ("DOE") National Mid-West Average Price of Fuel. (This information is updated and available after 4:00pm each Monday on the DOE website at <http://tonto.eia.doe.gov/oog/info/gdu/gasdiesel.asp>.) If fuel rates go above \$4.00 per gallon, there will be a 1% increase to the contract; if rates go above \$4.50 per gallon, there will be a 2% increase to the contract; if fuel rates go above \$5.00 per gallon, there will be a 3% increase to the contract.

The pricing of deicing chemical application materials is subject to change during the duration of the contract term due to the market adjustments to the cost of materials. JMA reserves the right to re-visit this pricing annually with the Client if the pricing of deicing chemicals increases by 5% over the estimated costs on or after November 1st of each season. In the event of a regional or national salt shortage, salt prices may increase due to availability. Client acknowledges that the rate of salt and application is subject to change and no amendment or separate signed agreement is necessary to alter same.

SECTION 10 – PROPERTY INSPECTION SERVICES

JMA will provide an inspection of the Property when precipitation or freezing conditions are anticipated for icing and/or slippery conditions and provide required chemical treatment. Each inspection provided by JMA will be invoiced at \$60.00 per occurrence.
OR

Initial to Accept

The Client or Client's agent will provide an inspection of the Property when precipitation or freezing conditions are anticipated for icing and/or slippery conditions.

SECTION 11 – ACCEPTANCE

The undersigned parties have executed this agreement as of this 9th day of November, 2023.

James Martin Associates, Inc.
59 East US Highway 45
Vernon Hills, IL 60061

Vernon Hills Public Works Dept.
490 Greenleaf Drive
Vernon Hills, IL 60061-1039

By: Thomas C. Bolas 
James Martin Associates, Inc. Certified Snow Professional
Thomas Bolas, CSP

By: Kevin Timony
Client
Kevin Timony

Print Name: Thomas C. Bolas, CLP, CSP

Village Manager

Print Title: General Manager

JMA EMERGENCY CONTACT INFO

JMA 24 hour office: (847) 876-8036



**SNOW & ICE MANAGEMENT SERVICES AGREEMENT
2023-2024 Snow Seasons**

August 10, 2023

Opportunity #:

Attn: Ken Loar
Forestry Crew Leader
Village of Vernon Hills
490 Greenleaf Drive
Vernon Hills, IL 60061-1039

Phone: 847-680-2268
Mobile:
Email: KenL@vhills.org

Property:

VH Metra Lot – 75 East US Highway 45, Vernon Hills, IL 60061

James Martin Associates, Inc. (JMA) and the Client, in consideration of the mutually agreed terms and conditions described below, enter into the following Snow and Ice Management Services Agreement (Agreement), for the period specified, for services on the Property (Property) described above:

SECTION 1 – CONTRACT DATES FOR SNOW AND ICE MANAGEMENT AGREEMENT

JMA will be responsible for providing services in accordance with this agreement beginning November 1, 2023 and ending March 31, 2024.

SECTION 2 – FEES FOR SNOW AND ICE MANAGEMENT SERVICES

	<u>2023-2024</u>	ACCEPT (Initial One)	DECLINE
Seasonal Plowing/Shoveling Service	\$23,995.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>**Includes plowing sidewalk shoveling, and the application of de-icing chemicals to parking lot and sidewalk areas using materials provided by the Village. Note: Does not include East parking lot nor other areas marked on site plan.</i>			
Seasonal Snow Relocation Along Rt 45	\$ 2,763.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>**Includes relocating snow along JMA/Metra property line to grass area along Route 45. If accepted, this will be invoiced together with the seasonal plowing and shoveling above.</i>			
Grand Total Proposed:	\$26,518.00		

Per Inch Rates for Services Beyond the 45" Seasonal Accumulation:

2032-2024 Services beyond the 45" will be invoiced at \$577 per additional inch or fraction thereof.

JMA will stake curbs and obstacles by 12/1 each year upon Client's request and will invoice the Client \$3.00 per stake. Areas to be staked will be identified and communicated to the Client prior to the staking being completed.

**Initial to Request
Snow Staking**

SECTION 3 - BILLING: For Services provided on a "Season-Long Basis", JMA will submit invoices on the 1st of each of the 5 months, November through March, for 20% of the annual amount for the Snow Plowing portion of the Services. Invoicing will begin with November of each snow season. Invoices for services outside the realm of the basic services will be invoiced as completed.

All invoices are due within fifteen (15) days of the date of invoice. For any amount owed thirty days past the due date, the Client agrees to pay JMA a finance charge of 1½ % per month or 18% per year. If the Client's account is past due, JMA may, without notice, suspend its obligation to perform Services until JMA receives all amounts past due and owing. During the period of such suspension, the Client agrees and understands that JMA will not be liable for any costs or damages, including but not limited to consequential damages, to the Client or any other party that may arise from or be related to such a suspension of Services. The Client also agrees to pay any expenses incurred

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by JMA in collecting amounts due, including court costs, all reasonable attorneys' fees and all other reasonable costs of collection.

SECTION 4 – DESCRIPTION OF SERVICE JMA, an independent contractor, will provide Snow and Ice Management Services to the Client's Property, subject to the terms and conditions described in this agreement and the Client agrees to provide JMA with access to the Property to perform these Services:

A. Snow and Ice Management Services: JMA will provide the following Snow and Ice Management Services (Services) on the Property according to the terms and conditions described in this Agreement:

JMA will clear snow accumulations from the following areas after one inch (1") snow accumulation:

- Driveways, parking spaces, fire lanes, and ingress right-hand turn lanes into the West parking lot from Route 45 and its egress lane. Does NOT include the East parking lot, which is closed.
- The Metra Lot will be ready by 5:00am, Monday-Friday, depending on the start of the snowfall, and will be monitored until 9:30pm, Monday-Friday.
- Walks included around Metra station, fees booth, platform waiting areas, stairs and walk to bike path on other side of tracks, but not including brick platform area between tracks and wood framing unless approval is given from the Village. Metra crews will shovel the walks along the railroad tracks. Public Works will shovel walks on East side of lot to Rt 45.

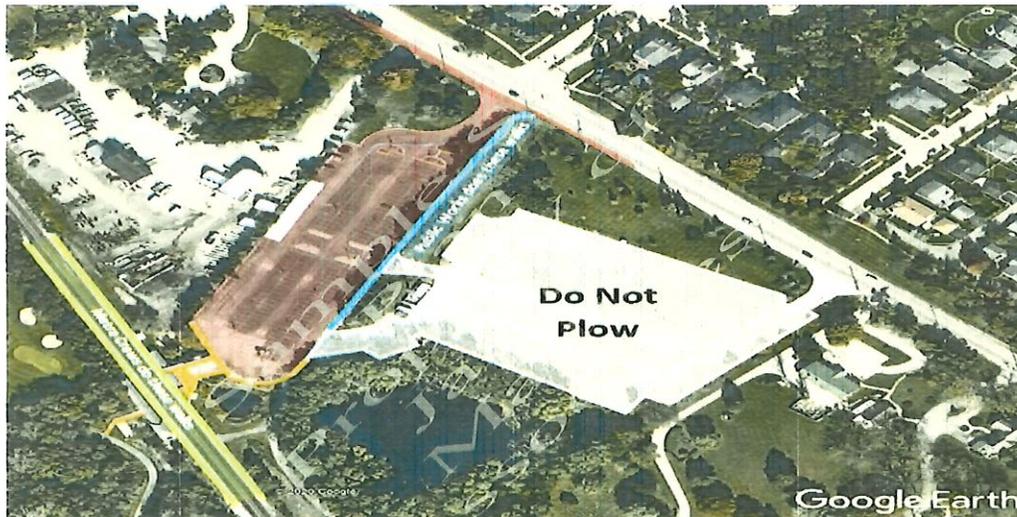
SERVICE AREAS INCLUDED

The site plan below indicates the service areas that have been included. Initial to Confirm

**A full page site plan is available upon request once contract has been accepted.*

 = Parking/Drive Areas  = Private Walks

Vernon Hills Metra Lot (Reduced Areas)



When plowing begins at the Property, drives and lanes will be plowed to allow general access to the entire site. Individual parking spaces which are accessible will then be plowed throughout the site. This process will complete what is to be termed a "plowing occurrence."

- After JMA clears an area of snow on the property by plowing (if shoveling is included, see vii. below), JMA will apply deicing chemicals to the cleared areas. **JMA will use sidewalk icemelt supplied by the Village of Vernon Hills. JMA will use bulk salt supplied by the Village of Vernon Hills. Bulk salt and sidewalk icemelt applications will be included in the seasonal plowing service up to 45" seasonal accumulation, and at per-inch rates thereafter.**
- JMA will chemically treat snow accumulations of less than one inch (1") in most cases to reduce the accumulations. **JMA will use sidewalk icemelt supplied by the Village of Vernon Hills. JMA will use bulk salt supplied by the Village of Vernon Hills. Bulk salt and sidewalk icemelt applications will be included in the seasonal plowing service up to 45" seasonal**

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accumulation, and at per-inch rates thereafter. JMA will chemically treat icy conditions caused by light snow, freezing rain or sleet, in most cases. **JMA will use sidewalk icemelt supplied by the Village of Vernon Hills. JMA will use bulk salt supplied by the Village of Vernon Hills. Bulk salt and sidewalk icemelt applications will be included in the seasonal plowing service up to 45" seasonal accumulation, and at per-inch rates thereafter.**

- iii. Snowfalls during daytime business hours will be plowed and chemically treated and shoveled, if shoveling is included in the contract, as necessary with primary focus on main lanes, entrances and egresses of property and main entrance walks, based upon Partial or Full Per Occurrence Rates. This may require multiple visits.
- iv. JMA is not responsible for plowing, clearing or chemically treating areas where cars are parked. JMA will make reasonable efforts to clear parking areas between and around parked cars. JMA will not plow within two (2) feet of parked vehicles. Further, JMA will not plow in between parked vehicles. The Client and/or its agents will coordinate with JMA for a return to the site to plow once vehicles move at our Hourly Service Rates.
- v. JMA is not responsible for ice-control near low lying areas that are prone to collect water that can freeze. JMA shall not be responsible for ice-control in or near depressions, potholes or other defects on the property that are prone to collect water that can freeze. JMA shall not be responsible for refreeze due to drainage of defective down spouts, roof balconies, awnings, canopies or any other refreezing events after the initial services have been rendered.
- vi. JMA will do its best to push snow off the paved areas using truck mounted plows. In the case where snows have caused the loss of parking space or accumulated snow has encroached into the paved areas, JMA, when requested, will provide snow relocation services based upon our Hourly Service Rates. These services will be provided on a first call/first service basis and only after JMA has completed its normal plowing and deicing operations.
- vii. Shoveling operations in most cases will be done concurrently with the plowing operations. Once snow has been cleared from walks and pedestrian areas, JMA will apply deicing chemicals to the cleared areas. However, during times of unsafe or severe weather conditions or worker exhaustion due to continuous snow removal operations, JMA reserves the right to leave the site and return to complete operations after the unsafe weather conditions have ended or after the workers have been rested. **JMA will retain one truck to monitor the Metra Station to help keep site safe.**
- viii. Client understands it maintains a responsibility to inspect Work performed by JMA to determine if it is satisfactory and to their specification. If Client and/or its agent does not advise JMA that there is a need for additional snow removal or de-icing application services, then the parties hereby agree that JMA has satisfactorily performed its contractual duties at the time.
- ix. During periods of Severe Weather Conditions, (see Section 5) it may/will be necessary to provide multiple plowing and shoveling operations to remove excess accumulations. **This action will result in an additional charge,** to be calculated using our Hourly Rates as detailed in Section 4C, unless otherwise specified in Section 4.

B. Snow Hauling and Relocating Services: Excluded from these Snow and Ice Management Services is hauling or relocating snow within the Property or off the Property and the use of loaders to pile and perform additional pushing during or after successive storms. JMA must be authorized by the Client to provide these additional services which will be provided at the Hourly Service Rates below.

C. Hourly Services and Material Rates – JMA will perform Hourly Services as described above and when applicable based upon the following rate schedule:

Truck with 6 ½ -7' blade	\$ 80.00	per hour	Semi Dump Truck	\$ 260.00	per hour
Truck with 7 ½ -8' blade	\$ 104.00	per hour	Skid Steer Loader	\$ 175.00	per hour
Truck with 8 ½ -9' blade	\$ 115.00	per hour	Front End Loader	\$ 290.00	per hour
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Lowboy Transportation Fee	\$ 575.00	per occurrence			

The above rates apply for operations performed up to 8 hours – for all work performed over 8 hours add \$15 per hour. Prices are portal to portal, including a lowboy transportation fee to move equipment to and from the location. All Hourly Services jobs will be assessed a ½ hour mobilization fee per snow event. For services performed on a Per

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Plowing Occurrence or Per Deicing Occurrence basis, a holiday surcharge of 25% will be incurred for all Snow and Ice Management Services occurring on Thanksgiving Day, Christmas Eve Day, Christmas Day, New Year's Eve Day, New Year's Day and Easter Sunday. An Hourly Rate Surcharge of \$15 per hour will apply on these same dates for all required Hourly Rate Services.

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JMA and Client agree that Severe Weather Conditions are defined as follows:

- A. Severe Weather Definition:** Severe Weather shall be defined as any one or a combination of the following: 8" of snowfall or more within a 24 hour period (Blizzard), as measured by Murray and Trettel Meteorological Service; a period of high winds accompanied by blowing and drifting snow; an accumulation of freezing rain or ice; a period when air temperatures or wind chill temperatures are below 10 degrees Fahrenheit; or when the duration of the same storm exceeds 24 hours.
- B. Blizzard Fee:** Plowing and shoveling services will require increased amounts of time and difficulty due to the nature of 8" of snowfall or more within a 24 hour period. For any period of these severe weather conditions, all contracts will be charged a Blizzard Fee as identified in Section 2; this includes all seasonal contracts with or without a seasonal snowfall accumulation cap and contracts that are on a per-push basis.
- C. Drifting Snow:** Clearing of drifted snow on days without snowfall or clearing of drifted snow after 24 hours from when the snow began will be invoiced at our Hourly Rates as detailed in Section 4. Clearing of drifted snow will only be completed on a first call/first serve basis upon authorization from the Client.
- D. Ice Control:** Ice control for the following situations will be invoiced at the Hourly Rates as detailed in Section 4: Severe icing from accumulations of snow, or from compacted snow, or from freezing rain or from the melting of accumulations from roofs, or downspout runoff, or melting from stockpiled snow, or ice build-ups requiring hand labor to chip the ice. Ice storms and other icing events will be included if the contract is a seasonal fixed fee contract and each 1/10th of an inch of ice will count as 1 inch towards the cap if the contract has a seasonal snowfall cap.
- E. Potential Salt Shortage:** Due to salt shortages from the salt suppliers, potential imposed salt rations and priority given to municipalities, JMA cannot guarantee and cannot be held responsible for the availability of rock salt to be used for ice control or for any consequential damages because of a shortage.

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JMA will exercise reasonable care to avoid damage to pavement, curbs, trees and shrubs. Prior to the start of the snow season, the Client agrees to document the existing conditions of the Property and will have JMA review and sign off on those existing conditions or JMA will not be responsible for any assumed damages. JMA and Client agree that JMA shall not be responsible for: (a) damage to sidewalks, curbs, sod or other plant materials due to the application of salt, calcium chloride or other de-icing agents; (b) damage done by plowing blade to concrete, asphalt or other surfaces to be plowed; (c) damage to landscaping caused by the piling of snow; (d) damage to items that are snow-covered or not visible; (e) damage caused by equipment when tree, shrub and sidewalk areas are not reasonably delineated due to snow accumulation; (f) damage to vehicles, other than the contractor's equipment and vehicles, due to icy conditions, unless directly damaged by the contractor's equipment or vehicles; (g) damage or loss resulting from melting snow and refreezing conditions; (h) water damage caused by melting snow or ice; (i) damage to obstacles that protrude from the surface of the pavement, including utilities such as water shut offs, electrical boxes, sewer vents & clean outs and any other obstacles on or within 10" of the pavement. Client understands that snow plowing, by its very nature, involves pushing steel or other types of blades over the surface of the pavement. If

pavement is defective, deteriorated, weakened, frost heaved, or, was installed improperly, the results of this previous damage are more likely to appear after snow plowing.

If Client declines to have JMA apply the Services to any portion of the Property, then Client acknowledges that JMA is not responsible for any damages or claims whatsoever relating to or caused, in whole or in part, by the failure to apply the Services to the Property in any particular circumstance, and Client further agrees to indemnify and hold harmless JMA and its agents and employees from and against any such claims and acknowledges that it has the sole responsibility to manage ice on the Property.

In the event that JMA damages any turf by snow plowing, pushing or loading snow, JMA will reseed the damaged turf in the spring (**by May 1, weather permitting**) following completion of the current season's Snow and Ice Management Services and Client will provide watering if needed.

The Client will report in writing any property damage caused by JMA within forty-eight (48) hours of its occurrence. JMA will repair any timely and properly reported property damage in the spring season following completion of the Snow and Ice Maintenance Services season in which the property damage occurred. Notwithstanding anything herein to the contrary, JMA will have no obligation, and the Client waives any damages for, any property damage not timely and properly reported.

SECTION 7 – STANDARD TERMS AND CONDITIONS In the event any legal action is taken by either party against the other party to enforce any of the terms and conditions of this agreement, it is agreed that the unsuccessful party to such action shall pay to the prevailing party therein all court costs, reasonable attorney's fees and other reasonable expenses incurred by the prevailing party. It is agreed that JMA will only be liable for acts arising out of JMA's negligent performance of this work. Due to the nature of Illinois weather, JMA and Client acknowledge that JMA does not assume responsibility for maintaining paved surfaces in an ice free or snow free condition.

JMA and Client acknowledge that JMA is an independent contractor and not an employee of the Client. JMA will provide all labor, equipment, tools, materials, subcontractors and supervision required to provide the Services described in a workmanlike manner and JMA's performance will meet or exceed accepted industry snow and ice management standards. JMA and Client acknowledge that it is impossible and impracticable to achieve the total elimination of snow from all areas. Client acknowledges that JMA is not engaged, nor does it accept engagement, as a continuing monitor of potentially dangerous or unsafe conditions which may arise by reason of thawing and refreezing of previously plowed or treated areas. Upon reasonable notice from Client of any such condition, JMA will use its reasonable best efforts to service such condition. JMA and Client acknowledge that the very nature of snow and ice management includes site and weather conditions beyond JMA's and the Clients control and JMA and Client acknowledge that snow and ice management services include activities potentially damaging to the underlying pavement and surrounding landscape elements. JMA and Client agree and acknowledge that JMA is not responsible for preventing the formation or accumulation of ice on the Property.

For any and all, actual or alleged, incidents involving in potential or apparent injury or damage, the Client will notify JMA promptly and assist in obtaining details and information required for JMA's preparation of a defense. The Client agrees that if the Client fails to promptly notify and assist, the Client will indemnify, defend and hold harmless JMA for any and all damages or injuries to persons or property or claims, actions, obligations, liabilities, costs, expenses and fees arising from the incident.

Indemnification is provided subject to Senate Bill 2138 and its limitations and restrictions.

The Client shall indemnify, defend and hold harmless JMA, its Clients, employees and subcontractors from and against any and all claims, damages, reasonable attorneys' fees, costs and expenses which JMA incurs as a result of a claim or claims brought by the Client or any third party, arising out of any wrongdoing, negligence and/or breach of contract by the Client alleged or otherwise, or any Act of God, including but not limited to extraordinary weather conditions, that is related, in any manner whatsoever, to the Property or the Client's involvement with the Property or the Services, including but not limited to personal injuries resulting from slip and fall accidents.

This contract may be terminated by either party due only to non-performance of the terms of this agreement upon thirty (30) days prior written notice. At termination the account will be audited and a final invoice will be submitted for unbilled services. The Client agrees to make payment to JMA for all services performed prior to the date of termination. The Client's obligation to pay JMA for Services performed up through and including the day of termination or expiration shall survive termination or expiration of this agreement. This agreement between James Martin Associates, Inc and Customer may be transferred and assigned by either party in order to complete the services described under this Agreement.

SECTION 8 – PHOTO RELEASE James Martin Associates, Inc.,(JMA) and the Client agree: JMA has the right to photograph the property on which services are provided; these images are products of JMA's work and remain the property of JMA in perpetuity; JMA reserves its common law copyrights and other property rights to these images; JMA has the right to publish, and/or use images of the property in whole or in part, for promotion and

advertising, and other specific JMA uses such as: an awards competition, JMA website, recruiting, marketing brochures, magazine or newspaper articles and any other lawful purpose whatsoever.

SECTION 9 – NOTICES AND MISCELLANEOUS PROVISIONS For the purpose of this Agreement, there are no collateral or verbal understandings. All notices required to be in writing hereunder shall be deemed to have been duly given when delivered personally or by overnight courier with a receipt obtained therefore or when mailed by United States registered or certified mail, return receipt requested, postage prepaid, addressed, to the address of the party as set forth on the signature page hereof, or to such other address as either party may furnish to the other in writing in accordance with this Section, except that notices of changes of address shall be effective upon receipt.

Any individual who signs this Agreement on behalf of the JMA or the Client represents promises and guarantees that he or she is fully authorized to execute this Agreement on behalf of his or her employer or company. In the case of an agent of the Client of the Property, such agent represents promises and guarantees that such agent is fully authorized to execute this Agreement on behalf of the Client of the Property.

If any provision of this Agreement shall be found to be invalid, inoperative or unenforceable in law or equity, such finding shall not affect the validity of any other provisions of the Agreement, which shall be construed, reformed and enforced to affect the purposes of this Agreement to the fullest extent permitted by law.

This Agreement: (a) shall be governed by and construed under the laws of the State of Illinois, without application of principles of conflicts of laws; (b) shall constitute the entire agreement of the parties with respect to the subject matter hereof, superseding all prior oral and written communications, proposals, negotiations, representations, understandings, courses of dealing, agreements, contracts and the like between the parties in such respect; (c) may be amended, modified or terminated, and any right under this Agreement may be waived in whole or in part, only by a writing signed statement by both parties; (d) contains headings only for convenience, which headings do not form part, and shall not be used in construction, of Agreement; and (e) shall bind and insure to the benefit of the parties and their respective legal representative.

This proposal is based on the average daily price for diesel fuel being less than \$4.00 per gallon as determined by the Department of Energy ("DOE") National Mid-West Average Price of Fuel. (This information is updated and available after 4:00pm each Monday on the DOE website at <http://tonto.eia.doe.gov/oog/info/gdu/gasdiesel.asp>.) If fuel rates go above \$4.00 per gallon, there will be a 1% increase to the contract; if rates go above \$4.50 per gallon, there will be a 2% increase to the contract; if fuel rates go above \$5.00 per gallon, there will be a 3% increase to the contract.

The pricing of deicing chemical application materials is subject to change during the duration of the contract term due to the market adjustments to the cost of materials. JMA reserves the right to re-visit this pricing annually with the Client if the pricing of deicing chemicals increases by 5% over the estimated costs on or after November 1st of each season. In the event of a regional or national salt shortage, salt prices may increase due to availability. Client acknowledges that the rate of salt and application is subject to change and no amendment or separate signed agreement is necessary to alter same.

SECTION 10 – PROPERTY INSPECTION SERVICES

JMA will provide an inspection of the Property when precipitation or freezing conditions are anticipated for icing and/or slippery conditions and provide required chemical treatment. Each inspection provided by JMA will be invoiced at \$60.00 per occurrence.
OR

Initial to Accept

✓

The Client or Client's agent will provide an inspection of the Property when precipitation or freezing conditions are anticipated for icing and/or slippery conditions.

SECTION 11 – ACCEPTANCE

The undersigned parties have executed this agreement as of this 9th day of November, 2023.

James Martin Associates, Inc.
59 East US Highway 45
Vernon Hills, IL 60061

Village of Vernon Hills Public Works
490 Greenleaf Drive
Vernon Hills, IL 60061

By: Thomas C. Bolas 
James Martin Associates, Inc. Thomas Bolas, CSP

By: Kevin Timony
Client

Print Name: Thomas C. Bolas, CLP, CSP

Kevin Timony

Print Title: General Manager

Village Manager

JMA EMERGENCY CONTACT INFO

VILLAGE OF VERNON HILLS

ORDINANCE NO. 2023-105

AN ORDINANCE AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A CONTRACT EXTENSION WITH JAMES MARTIN AND ASSOCIATES, INC. TO PERFORM SNOW & ICE CONTROL SERVICES DURING THE 2023-2024 WINTER SEASON FOR AN AMOUNT NOT TO EXCEED \$148,000

Published in pamphlet form by the Authority of the President and Board of Trustees of the Village of Vernon Hills, Lake County, Illinois, this 7th day of November, 2023

AFFIDAVIT OF SERVICE

STATE OF ILLINOIS)
)
COUNTY OF LAKE)

I, KEVIN TIMONY, BEING FIRST DULY APPOINTED, DEPOSES AND SAYS ON OATH THAT AS VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, HE DID CAUSE THE FOREGOING CERTIFICATE FOR ORDINANCE NO. 2023-105 AN ORDINANCE AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A CONTRACT EXTENSION WITH JAMES MARTIN AND ASSOCIATES, INC. TO PERFORM SNOW & ICE CONTROL SERVICES DURING THE 2023-2024 WINTER SEASON FOR AN AMOUNT NOT TO EXCEED \$148,000 TO BE POSTED IN THE VILLAGE HALL AS REQUIRED BY LAW FROM NOVEMBER 7, 2023 TO NOVEMBER 17, 2023.



Kevin Timony, Village Clerk

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 7th DAY OF NOVEMBER 2023



Notary Public

